

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
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Ali MOSLEH et al.)	Group Art Unit: 2159
)	
Application No.: 09/385,299)	Examiner: Somers, Marc S.
)	
Filed: August 30, 1999)	
)	
For: METHOD AND APPARATUS FOR)	Confirmation No.: 8955
INTEGRATED COMMUNICATION)	
SERVICES PROVISIONING FOR)	Attention: Mail Stop Appeal Brief -
HEALTH CARE COMMUNITY)	Patents

VIA EFS WEB

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF UNDER BOARD RULE § 41.37

In support of the Notice of Appeal filed July 31, 2009, and further to Board Rule 41.37, Appellant presents this brief and encloses herewith the fee of \$540.00 required under 37 C.F.R. § 1.17(c). This Appeal responds to the final rejection mailed April 2, 2009, and the Notice of Panel Decision from Pre-Appeal Brief Review mailed September 10, 2009. Pursuant to the Notice of Appeal, the time period for filing the Appeal Brief is reset to one month from the mailing date of the Notice of Panel Decision from Pre-Appeal Brief Review. This Appeal Brief is being filed concurrently with a petition for an Extension of Time for one-month. Thus, this Appeal Brief is being timely filed on or before the extended due date of November 10, 2009, measured from the mailing date of the Notice of Panel Decision from Pre-Appeal Brief Review.

If any additional fees are required or if the enclosed payment is insufficient,
Appellant requests that the required fees be charged to Deposit Account No. 06-0916.

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I. Real Party in Interest

The real party in interest of the present application, solely for purposes of identifying and avoiding potential conflicts of interest by board members due to working in matters in which the member has a financial interest, is Verizon Communications Inc. and its subsidiary companies, which currently include Verizon Business Global, LLC (formerly MCI, LLC) and Cellco Partnership (doing business as Verizon Wireless, and which includes as a minority partner affiliates of Vodafone Group Plc). Verizon Corporate Services Group Inc. is an assignee of record of the present application.

II. Related Appeals and Interferences

There are currently no other appeals or interferences, of which Appellant, Appellant's legal representative, or the assignee are aware, that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claims 1-17 and 30-54 remain pending in this application, and are being appealed herewith. Claims 18-29 have previously been cancelled.

IV. Status of Amendments

No amendments were filed subsequent to the Final Office Action mailed April 2, 2009.

V. Summary of Claimed Subject Matter

The following summary of the presently claimed subject matter indicates certain portions of the specification (including the drawings) that provide examples of embodiments of elements of the claimed subject matter. It is to be understood that other portions of the specification not cited herein may also provide examples of embodiments of elements of the claimed subject matter. It is also to be understood that the indicated examples are merely examples, and the scope of the claimed subject matter includes alternative embodiments and equivalents thereof. References herein to the specification are thus intended to be exemplary and not limiting.

Independent claim 1 is directed to a method of accessing an information system using a portable access device (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises: identifying a communication profile associated with a first network server (for example, Fig. 1, references 40 and 42; and Specification p. 16, lines 4-6); attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using communication channel that is selected by the portable access device based on the communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20) and a location of the portable access device with respect to the first network server (for example, Specification p. 15, lines 18-25), wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12); and capturing data received by the portable access device in a memory located

in the portable access device in accordance with a failed attempt to establish the communication link (for example, Fig. 7a, reference 240; and Specification p. 22, line 24 to Specification p. 23, line 1).

Independent claim 3 is directed to a method of accessing an information system using a portable access device (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises: identifying, by the portable access device, a communication profile associated with a first network server (for example, Fig. 1, references 40 and 42; and Specification p. 16, lines 4-6), wherein the identifying comprises: searching an internal database for the communication profile (for example, Fig. 1, references 20 and 22; and Specification p. 16, lines 4-8); transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (for example, Fig. 1, reference 50; and Specification p. 16, lines 20-23); and retrieving the communication profile from the second network server (for example, Specification p. 16, lines 23-26). The method further comprises: attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using one of a plurality of communication media, in accordance with the communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20), wherein the one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12); and capturing data in a memory location in accordance with a failed attempt to establish

the communication link (for example, Fig. 7a, reference 240; and Specification p. 22, line 24 to Specification p. 23, line 1).

Independent claim 7 is directed to a method of accessing an information system using a portable access device (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises: receiving a request from said portable access device to access a network server (for example, Fig. 1, reference 50; and Specification p. 16, lines 20-23); identifying a communication profile associated with said network server (for example, Specification p. 16, lines 23-26); transmitting said communication profile to said portable access device (for example, Specification p. 16, lines 23-26); and establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20) and a location of said portable access device with respect to said network server (for example, Specification p. 15, lines 18-25), wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12).

Independent claim 12 is directed to a method of access an information system using a portable access device (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises: transmitting from said portable access device to a first network server, a request to access a second network server (for example, Fig. 1, references 40, 42, and 50; and

Specification p. 16, lines 20-23); receiving said request at said first network server; (for example, Fig. 1, reference 50; and Specification p. 16, lines 20-23); identifying a communication profile associated with said second network server; (for example, Fig. 1, reference 50; and Specification p. 16, lines 23-26); transmitting said communication profile from said first network server to said portable access device (for example, Fig. 1, reference 50; and Specification p. 16, lines 23-26); and establishing a communication link between said portable access device and said second network server using a communication channel that is selected based on said communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20) and a location of said portable access device with respect to said second network server (for example, Specification p. 15, lines 18-25), wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12).

Independent claim 30 is directed to a computer-readable storage device containing instructions which, when executed by a processor (for example, Specification p. 27, lines 17-28), perform a method for accessing an information system comprising a portable access device and a plurality of network servers (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises identifying a communication profile associated with a first network server (for example, Fig. 1, references 40 and 42; and Specification p. 16, lines 4-6); attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using a communication

channel that is selected by the portable access device based on the communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20) and a location of the portable access device with respect to the first network server (for example, Specification p. 15, lines 18-25), wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12); and capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link (for example, Fig. 7a, reference 240; and Specification p. 22, line 24 to Specification p. 23, line 1).

Independent claim 32 is directed to a computer-readable storage device containing instructions which, when executed by a processor (for example, Specification p. 27, lines 17-28), perform a method for accessing an information system comprising a portable access device and a plurality of network servers (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises identifying, by the portable access device, a communication profile associated with a first network server (for example, Fig. 1, references 40 and 42; and Specification p. 16, lines 4-6), wherein identifying a communication profile further comprises: searching an internal database for the communication profile (for example, Fig. 1, references 20 and 22; and Specification p. 16, lines 4-8); transmitting from the portable access device to a second network server, a request to access said first network server when said communication profile cannot be found in said internal database (for example, Fig. 1, reference 50; and Specification p.

16, lines 20-23); and retrieving the communication profile from the second network server (for example, Specification p. 16, lines 23-26). The method further comprises: attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using one of a plurality of communication media, in accordance with the communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20), wherein the one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12); and capturing data in a memory location in accordance with a failed attempt to establish the communication link (for example, Fig. 7a, reference 240; and Specification p. 22, line 24 to Specification p. 23, line 1).

Independent claim 36 is directed to a computer-readable storage device containing instructions which, when executed by a processor (for example, Specification p. 27, lines 17-28), perform a method for accessing an information system comprising an access device and a plurality of network servers (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprises: receiving a request from said portable access device to access a network server (for example, Fig. 1, reference 50; and Specification p. 16, lines 20-23); identifying a communication profile associated with said network server (for example, Specification p. 16, lines 23-26); transmitting said communication profile to said portable access device (for example, Specification p. 16, lines 23-26); and establishing a communication link between said portable access device and said network server using

a communication channel that is selected based on said communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20) and a location of said portable access device with respect to said network server (for example, Specification p. 15, lines 18-25), wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12).

Independent claim 41 is directed to a computer-readable storage device containing instructions which, when executed by a processor (for example, Specification p. 27, lines 17-28), perform a method for accessing an information system comprising an access device and a plurality of network servers (for example, Fig. 1, references 40 and 42; Fig. 2, references 308 and 318; and Specification p. 15, lines 18-25). The method comprising: transmitting from said portable access device to a first network server, a request to access a second network server (for example, Fig. 1, references 40, 42, and 50; and Specification p. 16, lines 20-23); receiving said request at said first network server; (for example, Fig. 1, reference 50; and Specification p. 16, lines 20-23); identifying a communication profile associated with said second network server; (for example, Fig. 1, reference 50; and Specification p. 16, lines 23-26); transmitting said communication profile from said first network server to said portable access device (for example, Fig. 1, reference 50; and Specification p. 16, lines 23-26); and establishing a communication link between said portable access device and said second network server using a communication channel that is selected based on said communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20) and a location

of said portable access device with respect to said second network server (for example, Specification p. 15, lines 18-25), wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (for example, Fig. 1, references 25 and 45; and Specification p. 9, lines 5-12).

Independent claim 51 is directed to a method of accessing information using an access device (for example, Fig. 1, reference 20; and Specification p. 15, lines 18-25). The method comprises: identifying, by the access device, a communication profile associated with a first server (for example, Fig. 1, references 40 and 42; and Specification p. 16, lines 4-6); attempting, by the access device, to establish a communication link between the access device and the first server, in accordance with the communication profile (for example, Fig. 2, step 230; and Specification p. 22, lines 13-20), wherein the attempting includes initiating a first attempt to establish communication with the first server via a local wireless network (for example, Specification p. 16, lines 6-8), initiating a second attempt to establish communication via a remote wireless network if the first attempt fails (for example, Specification p. 16, lines 8-10), and initiating a third attempt to establish communication via a public switched telephone network if the second attempt fails (for example, Specification p. 16, lines 10-14); and accessing the information from the first server when the communication link is established (for example, Specification p. 16, lines 10-14).

VI. Grounds of Rejection

The grounds of rejections are as follows:

claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,867,821 to Ballantyne et al. ("*Ballantyne*") in view of U.S. Patent No. 5,740,231 to Cohn et al. ("*Cohn*");

claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and further in view of U.S. Patent No. 5,805,666 to Ishizuka et al. ("*Ishizuka*");

claims 11, 14, 17, 40, 43, 46, and 51-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and further in view of U.S. Patent No. 5,732,074 to Spaur et al. ("*Spaur*"); and

claims 4, 6, 33, 35, 48, 50, and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* and Ishizuka, and further in view of *Spaur*.

VII. Argument

The Board Should Reverse the Rejections Under 35 U.S.C. § 103(a) Because a *Prima Facie* Case of Obviousness Has Not Been Established

1. Rejection of Claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45

Appellant respectfully traverses the rejection of claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne* in view of *Cohn* because a *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. M.P.E.P. § 2142, 8th Ed., Rev. 6 (September 2007). "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." M.P.E.P. § 2145. "[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III). For at least the following reasons, Appellant respectfully submits the Examiner has failed to establish a *prima facie* case of obviousness.

Independent claim 7 recites a method of accessing an information system using a portable access device including, among other steps, "establishing a communication link between said portable access device and said network server using a

communication channel that is **selected based on said communication profile and a location of said portable access device with respect to said network server**, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN)," (emphasis added). Combinations of *Ballantyne* and *Cohn* do not teach, suggest, or render obvious at least these features of claim 7.

Ballantyne discloses a master library (ML) 2 that is connected to a nursing care station and/or a bedside patient care station (PCS) 8, via a fiber optical or coaxial cable 4. (*Ballantyne*, Figure 1; and col. 11, lines 12-27). ML 2 of *Ballantyne* utilizes a coaxial cable to transmit data to PCS 8 and network channels in *Ballantyne* constitute different spectrums of frequency of the coaxial cable. (*Ballantyne*, col. 9, lines 28-46). Moreover, PDA 10, in *Ballantyne*, "automatically transfers the modified health record or portions thereof to the PCS via the wireless/IR communications link." (*Ballantyne*, col. 12, lines 35-37).

Cohn is directed to "a communication system 10 [that] maintains a universal database of all users of the communications system and their individual communications profiles including the various media in which the users can send and receive messages. For example, a single user may control and receive communications using an electronic mail facility, a voice mail facility, a facsimile facility and a video facility." (*Cohn*, col. 7, line 62-col. 8, line 7). In *Cohn*, network hubs 12, 14, and 16 use the universal database to translate a message in accordance with the communication profiles and the translated message is then routed to a destination facility. (*Cohn*, col. 8, line 6-col. 9, line 12).

Thus, even if the teachings of *Ballantyne* and *Cohn* are considered in combination, such a combination still does not teach or suggest “establishing a communication link . . . using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server,” as recited in claim 7. As conceded on page 4 of the Final Office Action, there is no selection of a communication channel, from a group, based on “a **communication profile and a location** of said portable access device with respect to said network server,” in *Ballantyne*. To the contrary there is no need to **select**, from a group, a “communication channel” based on a communication profile and a location of said portable access device, in *Ballantyne*, because *Ballantyne* specifically discloses using a coaxial cable to establish communication between PCS 8 and ML2, and specifically using wireless/IR communications link to transfer data from PDA 10 to PCS 8. (*Ballantyne*, Figure 1; col. 11, lines 12-27; and col. 12, lines 35-37). Thus, separate means of communications are established between separate devices and *Ballantyne* does not teach or suggest interchanging the designated communication means.

Cohn discloses the use of communication profiles to translate and route messages to a destination facility, but does not teach or suggest selecting a communication channel, from a group, based on “a communication profile and a location of said portable access device with respect to said network server,” as recited in claim 7. There is no disclosure in either *Ballantyne* or *Cohn* of selecting a communication channel based on **both** “a communication profile and a **location of said portable access device with respect to said network server**,” (emphasis added) as recited in claim 7. Further, there is no disclosure in both *Ballantyne* and *Cohn* of

selecting a communication channel based on “**a location** of said portable access device **with respect to said network server**,” (emphasis added) as recited in claim 7.

Despite acknowledging the differences between *Ballantyne* and the elements of claim 7, the Examiner relies on *Ballantyne* in the rejection of claim 7. The Final Office Action and Advisory Action state:

The rejection in the previous Office Action **did not rely on** the definition of a “communication channel” as described by *Ballantyne* in the rejection and the mere fact that **Ballantyne describes a “communication channel” that appears to be different from the “communication channel” as described by the applicant’s** specification does not change the fact that *Ballantyne* teaches the claim limitations as described in the 35 USC 103(a) rejection. (Emphasis added). (Final Office Action, page 21 and 22; Advisory Action, page 2).

As acknowledged by the Examiner, the “channels” of *Ballantyne* are different from the claimed “communication channel” and, accordingly, *Ballantyne* does not teach, suggest, or render obvious the claimed “communication channel.” The network channels in *Ballantyne* are different spectrums of frequency of a coaxial cable and are **not** selected from a “**group consisting of**: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN),” as recited in claim 7. (*Ballantyne*, col. 5, lines 23-25). Further, *Cohn* discloses determining whether to transmit a message via one of electronic mail facility, a voice mail facility, a facsimile facility and a video facility, and does **not** disclose selecting a communication channel from a “**group consisting of**: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN),” (emphasis added) as recited in claim 7.

Thus, even if combined, *Ballantyne* and *Cohn* fail to teach, suggest, or render obvious “using a communication channel that is **selected based on said communication profile and a location of said portable access device** with respect to said network server, wherein said communication channel is selected from the group **consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN)**,” (emphasis added) as recited in claim 7.

No *prima facie* case of obviousness has been established for at least the reason that the Final Office Action and the Advisory Action have not given patentable weight to all the elements of claim 7 and have mischaracterized the references. Accordingly, for at least the above reasons, the Final Office Action and the Advisory Action have not established a *prima facie* case of obviousness of claim 7. Thus, the rejection of claim 7 under 35 U.S.C. § 103(a) should be reversed.

Independent claims 12, 36, and 41 are also allowable over *Ballantyne* and *Cohn* for at least reasons similar to those presented above for claim 7. For example, independent claim 12 includes “establishing a communication link . . . using a communication channel that is selected based on said communication profile and a location . . . said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN);” claim 36 includes “establishing a communication link between said portable access device and said network server using . . . communication channels that is selected based on said communication profile and a location . . . said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN);” and claim 41

includes "establishing a communication link between said portable access device and said second network server using a communication channel that is selected based on said communication profile and a location of the portable access device with respect to said second network server," features that are not taught or suggested by *Ballantyne* and *Cohn*.

Claims 9, 10, 15, 16, 38, 39, 44, and 45 are also allowable at least due to their dependence from one of the independent claims.

Accordingly, Appellant respectfully requests that the Board reverse the rejection of claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 under 35 U.S.C. § 103(a) for the reasons stated above.

2. Rejection of Claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49

Appellant respectfully traverses the rejection of claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 under 35 U.S.C. § 103(a) as being unpatentable in view of *Ballantyne*, *Cohn*, and *Ishizuka* because a *prima facie* case of obviousness has not been established.

Independent claim 1 recites a method of accessing an information system using a portable access device, the method including, among other steps, "attempting . . . to establish a communication link between the portable access device and the first network server using **communication channel that is selected** by the portable access device **based on the communication profile and a location of the portable access device** with respect to the first network server, wherein the communication channel is **selected from the group consisting** of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN)," (emphasis added).

Ballantyne and *Cohn* do not teach, suggest, or render obvious similar features recited in claim 7, and therefore do not teach, suggest or render obvious at least these features of claim 1. For example, there is no disclosure in either *Ballantyne* or *Cohn* of "using communication channel that is selected by the portable access device based on the **communication profile and a location of the portable access device** with respect to the first network server," (emphasis added) as recited in claim 1. This is because *Ballantyne* specifically discloses using a coaxial cable to establish communication between PCS 8 and ML2, and specifically using wireless/IR communications link to transfer data from PDA 10 to PCS 8. (*Ballantyne*, Figure 1; col. 11, lines 12-27; and col. 12, lines 35-37). *Cohn* discloses the use of communication profiles to translate and route messages to a destination facility, but neither *Ballantyne* nor *Cohn* discloses selecting a communication channel, from a group, based on "communication profile and a location of said portable access device with respect to said network server," as recited in claim 1.

Ballantyne and *Cohn* also do not teach or suggest selecting a communication channel from a "group **consisting of**: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN)," (emphasis added) as recited in claim 1.

Moreover, *Ishizuka* fails to cure the above-noted deficiencies of *Ballantyne* and *Cohn*. Thus, independent claim 1 is allowable over *Ballantyne*, *Cohn*, and *Ishizuka*.

Independent claims 3, 30, and 32 are also allowable over *Ballantyne*, *Cohn*, and *Ishizuka* for at least reasons similar to those presented above for claim 1. For example, independent claim 3 includes "attempting . . . to establish a communication link . . . in

accordance with the communication profile, wherein the one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN);" claim 30 includes "attempting . . . to establish a communication link . . . using a communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server, wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN);" and claim 32 includes "attempting . . . to establish a communication link between the portable access device and the first network server . . . in accordance with the communication profile, wherein the one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN)," features that are not taught or suggested by *Ballantyne*, *Cohn*, and *Ishizuka*.

Claims 2, 5, 8, 13, 31, 34, 37, 42, 47, and 49 are also allowable at least due to their dependence from one of the independent claims.

Accordingly, Appellant respectfully requests that the Board reverse the rejection of claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 under 35 U.S.C. § 103(a) for the reasons stated above.

3. Rejection of Claims 11, 14, 17, 40, 43, 46, and 51-53

Appellant respectfully traverses the rejection of claims 11, 14, 17, 40, 43, 46, and 51-53 under 35 U.S.C. § 103(a) as being unpatentable in view of *Ballantyne*, *Cohn*, and

Spaur because a prima facie case of obviousness has not been established.

Independent claim 51 recites: "attempting, by the access device, to establish a communication link between the access device and the first server, in accordance with the communication profile, wherein the attempting includes initiating a first attempt to establish communication with the first server via a local wireless network, initiating a second attempt to establish communication via a remote wireless network if the first attempt fails, and initiating a third attempt to establish communication via a public switched telephone network if the second attempt fails."

Ballantyne, *Cohn*, and *Spaur* do not teach, suggest, or render obvious "initiating a first attempt to establish communication with the first server via a local wireless network, initiating a second attempt to establish communication via a remote wireless network if the first attempt fails, and initiating a third attempt to establish communication via a public switched telephone network if the second attempt fails," as recited in claim 51, and similar features in dependent claims 11, 14, 17, 40, 43, 46, 52, and 53.

On pages 15 and 16 of the Final Office Action, the Examiner alleges that col. 11 lines 24-27 and col. 12, lines 35-37 and 60-63 of *Ballantyne* and col. 2 lines 25-29 and 56-65 and col. 6, lines 8-11 of *Spaur* teach these features of claim 51. This, however, is not correct. The cited portions of *Ballantyne* disclose that "PDA automatically transfers the modified health record portions thereof to the PCS via the wireless/IR communication link (102)," (*Ballantyne* col. 12, lines 35-37). Further, as noted above in *Ballantyne* a coaxial cable is specifically used to establish communication between PCS 8 and ML2, and a wireless/IR communications link is specifically used to transfer data

from PDA 10 to PCS 8. (*Ballantyne*, Figure 1; and col. 11, lines 12-27; and col. 9, lines 28-46).

Spaur discloses a "wireless device 18 [that] bi-directionally communicates with a controller 30 contained in the vehicle . . . using wireless device interface 22," (*Spaur*, col. 6, lines 11-14) such that "[t]he wireless device is contained within the vehicle and communicates with a controller through a phone interface," (*Spaur*, col. 2, lines 61-63).

Thus, even if the teachings of *Ballantyne*, *Cohn*, and *Spaur* are considered in combination, such a combination would not teach, suggest, or render obvious "initiating **a first attempt** to establish communication with the first server **via a local wireless network**, initiating **a second attempt** to establish communication **via a remote wireless network** if the **first attempt fails**, and initiating **a third attempt** to establish communication **via a public switched telephone network** if the **second attempt fails**," as recited in claim 51, and similar features in claims 11, 14, 17, 40, 43, 46, 52, and 53.

This is because *Ballantyne* merely discloses using a coaxial cable for communication between two devices and using a wireless/IR communications link for communication between two additional devices; *Spaur* merely discloses using a wireless device to communicate with a vehicle by using a phone interface; and there is no disclosure in *Cohn* of using alternative communication links based on failures of a previous attempt. None of *Ballantyne*, *Cohn*, or *Spaur* teaches or suggests a sequence of communication having "a first attempt," "a second attempt," and "a third attempt" such that the second attempt is initiated after the first attempt fails, and the third attempt is initiated after the second attempt fails, as recited in claim 51.

Further, none of *Ballantyne*, *Cohn*, or *Spaur* teaches or suggests a sequence of communication having “a first attempt,” “a second attempt,” and “a third attempt” such that the first attempt is for establishing communication “via a local wireless network,” and the second attempt is for establishing communication “via a remote wireless network” and the third attempt is for establishing communication via “a public switched telephone network,” as recited in claim 51.

Thus, no *prima facie* case of obviousness has been established for at least the reason that the Final Office Action and the Advisory Action have not given patentable weight to all the features of claim 51 and have mischaracterized the references. Accordingly, for at least the above reasons, the Final Office Action and the Advisory Action have not established a *prima facie* case of obviousness of claim 51. Thus, the rejection of claim 51 under 35 U.S.C. § 103(a) should be reversed.

Claims 11, 14, 17, 40, 43, 46, 52, and 53 are also allowable at least due to their dependence from one of the independent claim, and Appellant respectfully requests that the Board reverse the 35 U.S.C. § 103(a) rejection of claims 11, 14, 17, 40, 43, 46, and 51-53.

Notwithstanding the above, the following provides an additional basis for withdrawal of the rejection of dependent claims 11, 14, 17, 40, 43, 46, 52, and 53. *Ballantyne*, *Cohn*, and *Spaur* do not teach or suggest “transmitting a first request to a local wireless LAN transceiver; transmitting a second request to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and connecting to a PSTN when a communication link cannot be

established with said remote wireless transceiver," as recited in claim 11, and similar features in claims 14, 17, 40, 43, 46, 52, and 53.

As noted above, *Ballantyne* merely discloses using a coaxial cable for communication between two devices and using a wireless/IR communications link for communication between two additional devices; and *Spaur* merely discloses using a wireless device to communicate with a vehicle by using a phone interface. None of *Ballantyne*, *Cohn*, or *Spaur* teaches or suggests a sequence of communication having "a first request," "a second request," and "a third request" such that the second request is transmitted after the first request cannot establish a communication link, and the third request is transmitted after the second request cannot establish the communication link, as recited in claim 11, and similar features in claims 14, 17, 40, 43, 46, 52, and 53.

Further, none of *Ballantyne*, *Cohn*, or *Spaur* teaches or suggests a sequence of communication having "a first request," "a second request," and "a third request" such that the first request is transmitted to "a local wireless LAN transceiver," and the second request is transmitted to "a remote wireless transceiver" and the third request is transmitted to "a public switched telephone network," as recited in claim 11, and similar features in claims 14, 17, 40, 43, 46, 52, and 53.

Accordingly, claims 11, 14, 17, 40, 43, 46, 52, and 53 are allowable for these additional reasons, and Appellant respectfully requests that the Board reverse the 35 U.S.C. § 103(a) rejection of claims 11, 14, 17, 40, 43, 46, 52, and 53 for these additional reasons.

4. Rejection of Claims 4, 6, 33, 35, 48, 50, and 54

Appellant respectfully traverses the rejection of claims 4, 6, 33, 35, 48, 50, and 54 under 35 U.S.C. § 103(a) as being unpatentable in view of *Ballantyne*, *Cohn*, *Ishizuka*, and *Spaur* because a prima facie case of obviousness has not been established.

Claims 4, 6, 33, 35, 48, and 50 depend from one of independent claims 1, 3, 30, 32, and 51, and thus include all features of their respective base claims. As discussed above, *Ballantyne*, *Cohn*, and *Ishizuka* do not teach or suggest each and every feature recited in claims 1, 3, 30, 32, and 51. Moreover, *Spaur* fails to cure any of the deficiencies of *Ballantyne*, *Cohn*, and *Ishizuka* discussed above. Thus no *prima facie* case of obviousness has been established with respect to claims 4, 6, 33, 35, 48, 50, and 54, and Appellant respectfully requests the Board to reverse the 35 U.S.C. § 103(a) rejection of claims 4, 6, 33, 35, 48, 50, and 54.

Notwithstanding the above, the following provides an additional basis for withdrawal of the rejection of dependent claims 4, 6, 33, 35, 48, 50, and 54.

Ballantyne, *Cohn*, *Ishizuka*, and *Spaur* do not teach or suggest “transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; and connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver,” as recited in claim 4, and similar features in claims 6, 33, 35, 48, 50, and 54.

On pages 17 and 18 of the Final Office Action, the Examiner alleges that col. 11 lines 24-27 and col. 12, lines 35-37 and 60-63 of *Ballantyne* and col. 2 lines 25-29 and 56-65 and col. 6, lines 8-11 of *Spaur* teach these features of claim 51. This, however, is not correct because as noted above *Ballantyne* merely discloses using a coaxial cable for communication between two devices and using a wireless/IR communications link for communication between two additional devices; and *Spaur* merely discloses using a wireless device to communicate with a vehicle by using a phone interface. None of *Ballantyne*, *Cohn*, *Ishizuka*, or *Spaur* teaches or suggests a sequence of communication having "a first request," "a second request," and "a third request" such that the second request is transmitted after the first request cannot establish a communication link, and the third request is transmitted after the second request cannot establish the communication link, as recited in claim 4, and similar features in claims 6, 33, 35, 48, 50, and 54.

Further, none of *Ballantyne*, *Cohn*, *Ishizuka*, or *Spaur* teaches or suggests a sequence of communication having "a first request," "a second request," and "a third request" such that the first request is transmitted to "a local wireless LAN transceiver," and the second request is transmitted to "a remote wireless transceiver" and the third request is transmitted to "a public switched telephone network," as recited in claim 4, and similar features in claims 6, 33, 35, 48, 50, and 54.

Accordingly, claims 4, 6, 33, 35, 48, 50, and 54 are allowable for these additional reasons, and Appellant respectfully requests that the Board reverse the 35 U.S.C. § 103(a) rejection of claims 4, 6, 33, 35, 48, 50, and 54 for these additional reasons.

CONCLUSION

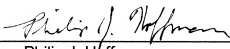
In view of the above, pending claims 1-17 and 30-54 are allowable over the applied prior art references. Therefore, Appellant respectfully requests the Board to reverse the Examiner's rejection of claims 1-17 and 30-54.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 9, 2009

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VIII. Claims Appendix to Appeal Brief Under Rule 41.37(c)(1)(viii)

1. A method of accessing an information system using a portable access device, the method comprising:

identifying a communication profile associated with a first network server;
attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server, wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN); and

capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

2. The method of claim 1 wherein said step of identifying a communication profile associated with said network server further comprises the following steps:

searching an internal database for a communication profile associated with the first network server; and

retrieving said communication profile from the internal database.

3. A method of accessing an information system using a portable access device, the method comprising:

identifying, by the portable access device, a communication profile associated with a first network server, wherein the identifying a comprises:

searching an internal database for the communication profile;

transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database; and

retrieving the communication profile from the second network server;

attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using one of a plurality of communication media, in accordance with the communication profile, wherein the one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN); and capturing data in a memory location in accordance with a failed attempt to establish the communication link.

4. The method of claim 3 wherein transmitting a request from the portable access device to the second network server comprises:

transmitting a first request from the portable access device to a local wireless LAN transceiver;

transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; and

connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

5. The method of claim 1 wherein said step of attempting to establish a communication link with said first network server is further comprised of the following steps:

configuring said portable access device to transmit using one of a plurality of communication channels, in accordance with said communication profile;

verifying the availability of said communication channel; and

initiating communication between said portable access device and said network server along said communication channel.

6. The method of claim 1 wherein attempting to establish a communication link server comprises:

transmitting a first request from said portable access device to a local wireless LAN transceiver;

transmitting a second request from said portable access device to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

requesting a connection to a PSTN when a communication link cannot be established with said remote wireless transceiver.

7. A method of accessing an information system using a portable access device, the method comprising:

receiving a request from said portable access device to access a network server;
identifying a communication profile associated with said network server;
transmitting said communication profile to said portable access device; and
establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN).

8. The method of claim 7 further comprising the step of configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

9. The method of claim 7 wherein said step of identifying a communication profile associated with said network device further comprises the following steps:
accessing a central database;

searching said central database for a communication profile associated with said network server; and
retrieving said communication profile.

10. The method of claim 7 wherein said step of establishing communication between said portable access device and said network server is further comprised of the following steps:

configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile;

verifying the availability of said communication channel; and

initiating communication between said portable access device and said network server using one of said communication channels.

11. The method of claim 7 wherein establishing a communication link comprises:
transmitting a first request to a local wireless LAN transceiver;
transmitting a second request to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and
connecting to a PSTN when a communication link cannot be established with said remote wireless transceiver.

12. A method of access an information system using a portable access device, the method comprising:

transmitting from said portable access device to a first network server, a request to access a second network server;

receiving said request at said first network server;

identifying a communication profile associated with said second network server;

transmitting said communication profile from said first network server to said portable access device; and

establishing a communication link between said portable access device and said second network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said second network server, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN).

13. The method of claim 12 further comprising the step of configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

14. The method of claim 12 wherein said step of transmitting from a portable access device to a first network server is further comprised of the following steps:

transmitting a first request from a portable access device to a local wireless LAN transceiver;

transmitting a second request from said portable access device to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

connecting said portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with said remote wireless transceiver.

15. The method of claim 12 wherein identifying a communication profile further comprises:

accessing a central database; and

retrieving a communication profile that corresponds to said second network server.

16. The method of claim 12 wherein establishing a communication link comprises:

configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile;

verifying the availability of a communication channel; and

initiating communication between said portable access device and said second network server along said communication channel.

17. The method of claim 12 wherein establishing a communication link comprises:

transmitting a first request to a local wireless LAN transceiver;
transmitting a second request to a remote wireless transceiver when a
communication link cannot be established with said local wireless LAN transceiver; and
connecting to a PSTN when a communication link cannot be established with
said remote wireless transceiver.

18-29. (Canceled)

30. A computer-readable storage device containing instructions which, when
executed by a processor, perform a method for accessing an information system
comprising a portable access device and a plurality of network servers, the method
comprising:

identifying a communication profile associated with a first network server;
attempting, by the portable access device, to establish a communication link
between the portable access device and the first network server using a communication
channel that is selected by the portable access device based on the communication
profile and a location of the portable access device with respect to the first network
server, wherein the communication channel is selected from the group consisting of: a
local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched
Telephone Network (PSTN); and

capturing data received by the portable access device in a memory located in the
portable access device in accordance with a failed attempt to establish the
communication link.

31. The computer-readable storage device of claim 30 wherein said step of identifying a communication profile associated with said network server further comprises the following steps:

searching an internal database for a communication profile associated with the first network server; and

retrieving said communication profile from the internal database.

32. A computer-readable storage device containing instructions which, when executed by a processor, perform a method for accessing an information system comprising a portable access device and a plurality of network servers, the method comprising:

identifying, by the portable access device, a communication profile associated with a first network server, wherein identifying a communication profile further comprises:

searching an internal database for the communication profile;

transmitting from the portable access device to a second network server, a request to access said first network server when said communication profile cannot be found in said internal database; and

retrieving the communication profile from said second network server;

attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using one of a plurality of communication media, in accordance with the communication profile, wherein the one of a plurality of communication media is selected from the group consisting of: a

local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN); and

capturing data in a memory location in accordance with a failed attempt to establish the communication link.

33. The computer-readable storage device of claim 32 wherein transmitting a request from the portable access device to the second network server comprises:

transmitting a first request from the portable access device to a local wireless LAN transceiver;

transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; and

connecting the portable access device to a PSTN when a communication link cannot be established with the remote wireless transceiver.

34. The computer-readable storage device of claim 30 wherein said step of attempting to establish a communication link with said first network server is further comprised of the following steps:

configuring said portable access device to transmit using one of a plurality of communication channels, in accordance with said communication profile;

verifying the availability of said communication channel; and

initiating communication between said portable access device and said first network server along said communication channel.

35. The computer-readable storage device of claim 30 wherein attempting to establish a communication link comprises:

transmitting a first request from said portable access device to a local wireless LAN transceiver;

transmitting a second request from said portable access device to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

requesting a connection to a PSTN when a communication link cannot be established with said remote wireless transceiver.

36. A computer-readable storage device containing instructions which, when executed by a processor, perform a method for accessing an information system comprising an access device and a plurality of network servers, the method comprising:

receiving a request from a portable access device to access a network server;

identifying a communication profile associated with said network server;

transmitting said communication profile to said portable access device; and

establishing a communication link between said portable access device and said network server using one of a plurality of communication channels that is selected based on said communication profile and a location of said portable access device with respect to said network server, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN).

37. The computer-readable storage device of claim 36 further comprising the step of configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

38. The computer-readable storage device of claim 36 wherein said step of identifying a communication profile associated with said network device further comprises the following steps:

accessing a central database;
searching said central database for a communication profile associated with said network server; and
retrieving said communication profile.

39. The computer-readable storage device of claim 36 wherein said step of establishing communication between said portable access device and said network server further comprises of the following steps:

configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile;
verifying the availability of said communication channel; and
initiating communication between said portable access device and said network server using one of said communication channels.

40. The computer-readable storage device of claim 36 wherein establishing communication comprises:

transmitting a first request to a local wireless LAN transceiver;
transmitting a second request to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and
connecting to a PSTN when a communication link cannot be established with said remote wireless transceiver.

41. A computer-readable storage device containing instructions which, when executed by a processor, perform a method for accessing an information system comprising an access device and a plurality of network servers, the method comprising:
transmitting from a portable access device to a first network server, a request to access a second network server;
receiving said request at said first network server;
identifying a communication profile associated with said second network server;
transmitting said communication profile to said portable access device; and
establishing a communication link between said portable access device and said second network server using a communication channel that is selected based on said communication profile and a location of the portable access device with respect to said second network server.

42. The computer-readable storage device of claim 41 further comprising the step of configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

43. The computer-readable storage device of claim 41 wherein said step of transmitting from a portable access device to a first network server is further comprised of the following steps:

transmitting a first request from a portable access device to a local wireless LAN transceiver;

transmitting a second request from said portable access device to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

connecting said portable access device to a PSTN when a communication link cannot be established with said remote wireless transceiver.

44. The computer-readable storage device of claim 41 wherein identifying a communication profile further comprises:

accessing a central database; and

retrieving a communication profile that corresponds to said second network server.

45. The computer-readable storage device of claim 41 wherein establishing a communication link comprises:

configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile;

verifying the availability of a communication channel; and

initiating communication between said profile access device and said second network server along said communication channel.

46. The computer-readable storage device of claim 41 wherein establishing a communication link comprises:

transmitting a first request to a local wireless LAN transceiver;

transmitting a second request to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

connecting to a PSTN when a communication link cannot be established with said remote wireless transceiver.

47. The method of claim 1 wherein the identifying comprises:

searching an internal database of the portable access device for the communication profile associated with the first network server;

transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database; and

retrieving the communication profile server from the second network server.

48. The method of claim 47 wherein transmitting a request from the portable access device to the second network server comprises:

transmitting a first request from the portable access device to a local wireless LAN transceiver;

transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; and

connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

49. The computer-readable storage device of claim 30 wherein identifying a communication profile further comprises:

searching an internal database of the portable access device for the communication profile;

transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database; and

retrieving the communication profile from the second network server.

50. The computer-readable storage device of claim 49 wherein transmitting a request from a portable access device to the second network server comprises:

transmitting a first request from the portable access device to a local wireless LAN transceiver;

transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; and

connecting the portable access device to a PSTN when a communication link cannot be established with the remote wireless transceiver.

51. A method of accessing information using an access device, the method comprising:

identifying, by the access device, a communication profile associated with a first server;

attempting, by the access device, to establish a communication link between the access device and the first server, in accordance with the communication profile, wherein the attempting includes initiating a first attempt to establish communication with the first server via a local wireless network, initiating a second attempt to establish communication via a remote wireless network if the first attempt fails, and initiating a third attempt to establish communication via a public switched telephone network if the second attempt fails; and

accessing the information from the first server when the communication link is established.

52. The method of claim 51, wherein identifying a communication profile comprises:

determining, by the access device, whether or not the communication profile is stored locally by the access device; and

establishing communication with a second server to retrieve the communication profile, if the communication profile is not stored locally.

53. The method of claim 52, wherein establishing communication with the second server comprises:

initiating a first attempt to establish communication via a local wireless network, initiating a second attempt to establish communication via a remote wireless network if the first attempt fails, and initiating a third attempt to establish communication via a public switched telephone network if the second attempt fails.

54. The method of claim 51, further comprising: configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails.

IX. Evidence Appendix to Appeal Brief Under Rule 41.37(c)(1)(ix)

None.

X. Related Proceedings Appendix to Appeal Brief Under Rule 41.37(c)(1)(x)

None.